

1 HB242  
2 189562-1  
3 By Representatives Sessions and Williams (JW)  
4 RFD: Ways and Means Education  
5 First Read: 18-JAN-18

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8 SYNOPSIS: Under existing law, an exemption from the  
9 state sales tax is provided for the sale of fruit  
10 or agricultural products by a person or corporation  
11 that planted, cultivated, and harvested the fruit  
12 or agricultural products. Under existing law, sales  
13 tax exemptions and use tax exemptions are not  
14 consistent.

15 This bill would specify that the sales tax  
16 exemption would apply to the sale of fruit or  
17 agricultural products by the person or corporation  
18 that planted or cultivated and harvested the fruit  
19 or agricultural products. This bill would also  
20 incorporate the sales tax exemptions into the use  
21 tax law.

22  
23 A BILL  
24 TO BE ENTITLED  
25 AN ACT  
26

1           To amend Sections 40-23-4 and 40-23-62, Code of  
2 Alabama 1975, as amended by Act 2017-397 of the 2017 Regular  
3 Session, relating to the state sales tax; to specify that the  
4 exemption for the sale of fruit or agricultural products by  
5 the person or corporation that planted or cultivated and  
6 harvested the fruit or agricultural products, when the land is  
7 owned or leased by the seller; and to incorporate sales tax  
8 exemptions provided in Sections 40-23-4 and 40-23-4.1, Code of  
9 Alabama 1975, into the use tax law.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11           Section 1. Sections 40-23-4 and 40-23-62, Code of  
12 Alabama 1975, as amended by Act 2017-397 of the 2017 Regular  
13 Session, are amended to read as follows:

14           "§40-23-4.

15           "(a) There are exempted from the provisions of this  
16 division and from the computation of the amount of the tax  
17 levied, assessed, or payable under this division the  
18 following:

19           "(1) The gross proceeds of the sales of lubricating  
20 oil and gasoline as defined in Sections 40-17-30 and 40-17-170  
21 and the gross proceeds from those sales of lubricating oil  
22 destined for out-of-state use which are transacted in a manner  
23 whereby an out-of-state purchaser takes delivery of such oil  
24 at a distributor's plant within this state and transports it  
25 out-of-state, which are otherwise taxed.

26           "(2) The gross proceeds of the sale, or sales, of  
27 fertilizer when used for agricultural purposes. The word

1 "fertilizer" shall not be construed to include cottonseed  
2 meal, when not in combination with other materials.

3 "(3) The gross proceeds of the sale, or sales, of  
4 seeds for planting purposes and baby chicks and poults.  
5 Nothing herein shall be construed to exempt or exclude from  
6 the computation of the tax levied, assessed, or payable, the  
7 gross proceeds of the sale or sales of plants, seedlings,  
8 nursery stock, or floral products.

9 "(4) The gross proceeds of sales of insecticides and  
10 fungicides when used for agricultural purposes or when used by  
11 persons properly permitted by the Department of Agriculture  
12 and Industries or any applicable local or state governmental  
13 authority for structural pest control work and feed for  
14 livestock and poultry, but not including prepared food for  
15 dogs and cats.

16 "(5) The gross proceeds of sales of all livestock by  
17 whomsoever sold, and also the gross proceeds of poultry and  
18 other products of the farm, dairy, grove, or garden, when in  
19 the original state of production or condition of preparation  
20 for sale, when such sale or sales are made by the producer or  
21 members of his immediate family or for him by those employed  
22 by him to assist in the production thereof. Nothing herein  
23 shall be construed to exempt or exclude from the measure or  
24 computation of the tax levied, assessed, or payable hereunder,  
25 the gross proceeds of sales of poultry or poultry products  
26 when not products of the farm.

1           "(6) Cottonseed meal exchanged for cottonseed at or  
2 by cotton gins.

3           "(7) The gross receipts from the business on which,  
4 or for engaging in which, a license or privilege tax is levied  
5 by or under the provisions of Sections 40-21-50, 40-21-53, and  
6 40-21-56 through 40-21-60; provided, that nothing contained in  
7 this subdivision shall be construed to exempt or relieve the  
8 person or persons operating the business enumerated in said  
9 sections from the payments of the tax levied by this division  
10 upon or measured by the gross proceeds of sales of any  
11 tangible personal property, except gas and water, the gross  
12 receipts from the sale of which are the measure of the tax  
13 levied by said Section 40-21-50, merchandise or other tangible  
14 commodities sold at retail by said persons, unless the gross  
15 proceeds of sale thereof are otherwise specifically exempted  
16 by the provisions of this division.

17           "(8) The gross proceeds of sales or gross receipts  
18 of or by any person, firm, or corporation, from the sale of  
19 transportation, gas, water, or electricity, of the kinds and  
20 natures, the rates and charges for which, when sold by public  
21 utilities, are customarily fixed and determined by the Public  
22 Service Commission of Alabama or like regulatory bodies.

23           "(9) The gross proceeds of the sale, or sales of  
24 wood residue, coal, or coke to manufacturers, electric power  
25 companies, and transportation companies for use or consumption  
26 in the production of by-products, or the generation of heat or  
27 power used in manufacturing tangible personal property for

1 sale, for the generation of electric power or energy for use  
2 in manufacturing tangible personal property for sale or for  
3 resale, or for the generation of motive power for  
4 transportation.

5 "(10) The gross proceeds from the sale or sales of  
6 fuel and supplies for use or consumption aboard ships,  
7 vessels, towing vessels, or barges, or drilling ships, rigs or  
8 barges, or seismic or geophysical vessels, or other watercraft  
9 (herein for purposes of this exemption being referred to as  
10 "vessels") engaged in foreign or international commerce or in  
11 interstate commerce; provided, that nothing in this division  
12 shall be construed to exempt or exclude from the measure of  
13 the tax herein levied the gross proceeds of sale or sales of  
14 material and supplies to any person for use in fulfilling a  
15 contract for the painting, repair, or reconditioning of  
16 vessels, barges, ships, other watercraft, and commercial  
17 fishing vessels of over five tons load displacement as  
18 registered with the U.S. Coast Guard and licensed by the State  
19 of Alabama Department of Conservation and Natural Resources.

20 "For purposes of this subdivision, it shall be  
21 presumed that vessels engaged in the transportation of cargo  
22 between ports in the State of Alabama and ports in foreign  
23 countries or possessions or territories of the United States  
24 or between ports in the State of Alabama and ports in other  
25 states are engaged in foreign or international commerce or  
26 interstate commerce, as the case may be. For the purposes of  
27 this subdivision, the engaging in foreign or international

1 commerce or interstate commerce shall not require that the  
2 vessel involved deliver cargo to or receive cargo from a port  
3 in the State of Alabama. For purposes of this subdivision,  
4 vessels carrying passengers for hire, and no cargo, between  
5 ports in the State of Alabama and ports in foreign countries  
6 or possessions or territories of the United States or between  
7 ports in the State of Alabama and ports in other states shall  
8 be engaged in foreign or international commerce or interstate  
9 commerce, as the case may be, if, and only if, both of the  
10 following conditions are met: (i) The vessel in question is a  
11 vessel of at least 100 gross tons; and (ii) the vessel in  
12 question has an unexpired certificate of inspection issued by  
13 the United States Coast Guard or by the proper authority of a  
14 foreign country for a foreign vessel, which certificate is  
15 recognized as acceptable under the laws of the United States.  
16 Vessels which are engaged in foreign or international commerce  
17 or interstate commerce shall be deemed for the purposes of  
18 this subdivision to remain in such commerce while awaiting or  
19 under repair in a port of the State of Alabama if such vessel  
20 returns after such repairs are completed to engaging in  
21 foreign or international commerce or interstate commerce. For  
22 purposes of this subdivision, seismic or geophysical vessels  
23 which are engaged either in seismic or geophysical tests or  
24 evaluations exclusively in offshore federal waters or in  
25 traveling to or from conducting such tests or evaluations  
26 shall be deemed to be engaged in international or foreign  
27 commerce. For purposes of this subdivision, proof that fuel

1 and supplies purchased are for use or consumption aboard  
2 vessels engaged in foreign or international commerce or in  
3 interstate commerce may be accomplished by the merchant or  
4 seller securing the duly signed certificate of the vessel  
5 owner, operator, or captain or their respective agent on a  
6 form prescribed by the department that the fuel and supplies  
7 purchased are for use or consumption aboard vessels engaged in  
8 foreign or international commerce or in interstate commerce.  
9 Any person filing a false certificate shall be guilty of a  
10 misdemeanor and upon conviction shall be fined not less than  
11 \$25 nor more than \$500 for each offense. Each false  
12 certificate filed shall constitute a separate offense. Any  
13 person filing a false certificate shall be liable to the  
14 department for all taxes imposed by this division upon the  
15 merchant or seller, together with any interest or penalties  
16 thereon, by reason of the sale or sales of fuel and supplies  
17 applicable to such false certificate. If a merchant or seller  
18 of fuel and supplies secures the certificate herein mentioned,  
19 properly completed, such merchant or seller shall not be  
20 liable for the taxes imposed by this division, if such  
21 merchant or seller had no knowledge that such certificate was  
22 false when it was filed with such merchant or seller.

23 "(11) The gross proceeds of sales of tangible  
24 personal property to the State of Alabama, to the counties  
25 within the state and to incorporated municipalities of the  
26 State of Alabama.

1           "(12) The gross proceeds of the sale or sales of  
2 railroad cars, vessels, barges, and commercial fishing vessels  
3 of over five tons load displacement as registered with the  
4 U.S. Coast Guard and licensed by the State of Alabama  
5 Department of Conservation and Natural Resources, when sold by  
6 the manufacturers or builders thereof.

7           "(13) The gross proceeds of the sale or sales of  
8 materials, equipment, and machinery which, at any time, enter  
9 into and become a component part of ships, vessels, towing  
10 vessels or barges, or drilling ships, rigs or barges, or  
11 seismic or geophysical vessels, other watercraft and  
12 commercial fishing vessels of over five tons load displacement  
13 as registered with the U.S. Coast Guard and licensed by the  
14 State of Alabama Department of Conservation and Natural  
15 Resources. Additionally, the gross proceeds from the sale or  
16 sales of lifeboats, personal flotation devices, ring life  
17 buoys, survival craft equipment, distress signals, EPIRB's,  
18 fire extinguishers, injury placards, waste management plans  
19 and logs, marine sanitation devices, navigation rulebooks,  
20 navigation lights, sound signals, navigation day shapes, oil  
21 placard cards, garbage placards, FCC SSL, stability  
22 instructions, first aid equipment, compasses, anchor and radar  
23 reflectors, general alarm systems, bilge pumps, piping, and  
24 discharge and electronic position fixing devices which are  
25 used on the aforementioned watercraft.

1           "(14) The gross proceeds of the sale or sales of  
2 fuel oil purchased as fuel for kiln use in manufacturing  
3 establishments.

4           "(15) The gross proceeds of the sale or sales of  
5 tangible personal property to county and city school boards  
6 within the State of Alabama, independent school boards within  
7 the State of Alabama, all educational institutions and  
8 agencies of the State of Alabama, the counties within the  
9 state, or any incorporated municipalities of the State of  
10 Alabama, and private educational institutions operating within  
11 the State of Alabama offering conventional and traditional  
12 courses of study, such as those offered by public schools,  
13 colleges, or universities within the State of Alabama; but not  
14 including nurseries, day care centers, and home schools.

15           "(16) The gross proceeds from the sale of all  
16 devices or facilities, and all identifiable components  
17 thereof, or materials for use therein, acquired primarily for  
18 the control, reduction, or elimination of air or water  
19 pollution and the gross proceeds from the sale of all  
20 identifiable components of or materials used or intended for  
21 use in structures built primarily for the control, reduction,  
22 or elimination of air and water pollution.

23           "(17) The gross proceeds of sales of tangible  
24 personal property or the gross receipts of any business which  
25 the state is prohibited from taxing under the Constitution or  
26 laws of the United States or under the Constitution of this  
27 state.

1           "(18) When dealers or distributors use parts taken  
2 from stocks owned by them in making repairs without charge for  
3 such parts to the owner of the property repaired pursuant to  
4 warranty agreements entered into by manufacturers, such use  
5 shall not constitute taxable sales to the manufacturers,  
6 distributors, or to the dealers, under this division or under  
7 any county sales tax law.

8           "(19) The gross proceeds received from the sale or  
9 furnishing of food, including potato chips, candy, fruit and  
10 similar items, soft drinks, tobacco products, and stationery  
11 and other similar or related articles by hospital canteens  
12 operated by Alabama state hospitals at Bryce Hospital and  
13 Partlow State School for Mental Deficients at Tuscaloosa,  
14 Alabama, and Searcy Hospital at Mt. Vernon, Alabama, for the  
15 benefit of the patients therein.

16           "(20) The gross proceeds of the sale, or sales, of  
17 wrapping paper and other wrapping materials when used in  
18 preparing poultry or poultry products for delivery, shipment,  
19 or sale by the producer, processor, packer, or seller of such  
20 poultry or poultry products, including pallets used in  
21 shipping poultry and egg products, paper or other materials  
22 used for lining boxes or other containers in which poultry or  
23 poultry products are packed together with any other materials  
24 placed in such containers for the delivery, shipment, or sale  
25 of poultry or poultry products.

26           "(21) The gross proceeds of the sales of all  
27 antibiotics, hormones and hormone preparations, drugs,

1 medicines or medications, vitamins, minerals or other  
2 nutrients, and all other feed ingredients including  
3 concentrates, supplements, and other feed ingredients when  
4 such substances are used as ingredients in mixing and  
5 preparing feed for fish raised to be sold on a commercial  
6 basis, livestock, and poultry. Such exemption herein granted  
7 shall be in addition to exemptions now provided by law for  
8 feed for fish raised to be sold on a commercial basis,  
9 livestock, and poultry, but not including prepared foods for  
10 dogs or cats.

11 "(22) The gross proceeds of the sale, or sales, of  
12 seedlings, plants, shoots, and slips which are to be used for  
13 planting vegetable gardens or truck farms and other  
14 agricultural purposes. Nothing herein shall be construed to  
15 exempt, or exclude from the computation of the tax levied,  
16 assessed, or payable, the gross proceeds of the sale, or the  
17 use of plants, seedlings, shoots, slips, nursery stock, and  
18 floral products, except as hereinabove exempted.

19 "(23) The gross proceeds of the sale, or sales, of  
20 fabricated steel tube sections, when produced and fabricated  
21 in this state by any person, firm, or corporation for any  
22 vehicular tunnel for highway vehicular traffic, when sold by  
23 the manufacturer or fabricator thereof, and also the gross  
24 proceeds of the sale, or sales, of steel which enters into and  
25 becomes a component part of such fabricated steel tube  
26 sections of said tunnel.

1           "(24) The gross proceeds from sales of admissions to  
2 any theatrical production, symphonic or other orchestral  
3 concert, ballet, or opera production when such concert or  
4 production is presented by any society, association, guild, or  
5 workshop group, organized within this state, whose members or  
6 some of whose members regularly and actively participate in  
7 such concerts or productions for the purposes of providing a  
8 creative outlet for the cultural and educational interests of  
9 such members, and of promoting such interests for the  
10 betterment of the community by presenting such productions to  
11 the general public for an admission charge. The employment of  
12 a paid director or conductor to assist in any such  
13 presentation described in this subdivision shall not be  
14 construed to prohibit the exemptions herein provided.

15           "(25) The gross proceeds of sales of herbicides for  
16 agricultural uses by whomsoever sold. The term herbicides, as  
17 used in this subdivision, means any substance or mixture of  
18 substances intended to prevent, destroy, repel, or retard the  
19 growth of weeds or plants. It shall include preemergence  
20 herbicides, postemergence herbicides, lay-by herbicides,  
21 pasture herbicides, defoliant herbicides, and desiccant  
22 herbicides.

23           "(26) The Alabama Chapter of the Cystic Fibrosis  
24 Research Foundation and the Jefferson Tuberculosis Sanatorium  
25 and any of their departments or agencies, heretofore or  
26 hereafter organized and existing in good faith in the State of  
27 Alabama for purposes other than for pecuniary gain and not for

1 individual profit, shall be exempted from the computation of  
2 the tax on the gross proceeds of all sales levied, assessed,  
3 or payable.

4 "(27) The gross proceeds from the sale or sales of  
5 fuel for use or consumption aboard commercial fishing vessels  
6 are hereby exempt from the computation of all sales taxes  
7 levied, assessed, or payable under the provisions of this  
8 division or levied under any county or municipal sales tax  
9 law.

10 "The words commercial fishing vessels shall mean  
11 vessels whose masters and owners are regularly and exclusively  
12 engaged in fishing as their means of livelihood.

13 "(28) The gross proceeds of sales of sawdust, wood  
14 shavings, wood chips, and other like materials sold for use as  
15 chicken litter by poultry producers and poultry processors.

16 "(29) The gross proceeds of the sales of all  
17 antibiotics, hormones and hormone preparations, drugs,  
18 medicines, and other medications including serums and  
19 vaccines, vitamins, minerals, or other nutrients for use in  
20 the production and growing of fish, livestock, and poultry by  
21 whomsoever sold. Such exemption as herein granted shall be in  
22 addition to the exemption provided by law for feed for fish,  
23 livestock, and poultry, and in addition to the exemptions  
24 provided by law for the above-enumerated substances and  
25 products when mixed and used as ingredients in fish,  
26 livestock, and poultry feed.

1           "(30) The gross proceeds of the sale or sales of all  
2 medicines prescribed by physicians for persons who are 65  
3 years of age or older, and when said prescriptions are filled  
4 by licensed pharmacists, shall be exempted under this division  
5 or under any county or municipal sales tax law. The exemption  
6 provided in this section shall not apply to any medicine  
7 purchased in any manner other than as is herein provided.

8           "For the purposes of this subdivision, proof of age  
9 may be accomplished by filing with the dispensing pharmacist  
10 any one or more of the following documents:

11           "a. The name and claim number as shown on a  
12 "Medicare" card issued by the United States Social Security  
13 Administration.

14           "b. A certificate executed by any adult person  
15 having knowledge of the fact that the person for whom the  
16 medicine was prescribed is not less than 65 years of age.

17           "c. An affidavit executed by any adult person having  
18 knowledge of the fact that the person for whom the medicine  
19 was prescribed is not less than 65 years of age.

20           "For the purposes of this subdivision, any person  
21 filing a false proof of age shall be guilty of a misdemeanor  
22 and upon conviction thereof shall be punished by a fine of  
23 \$100.

24           "(31) There shall be exempted from the tax levied by  
25 this division the gross receipts of sales of grass sod of all  
26 kinds and character when in the original state of production  
27 or condition of preparation for sale, when such sales are made

1 by the producer or members of his family or for him by those  
2 employed by him to assist in the production thereof; provided,  
3 that nothing herein shall be construed to exempt sales of sod  
4 by a person engaged in the business of selling plants,  
5 seedlings, nursery stock, or floral products.

6 "(32) The gross receipts of sales of the following  
7 items or materials which are necessary in the farm-to-market  
8 production of tomatoes when such items or materials are used  
9 by the producer or members of his family or for him by those  
10 employed by him to assist in the production thereof: Twine for  
11 tying tomatoes, tomato stakes, field boxes (wooden boxes used  
12 to take tomatoes from the fields to shed), and tomato boxes  
13 used in shipments to customers.

14 "(33) The gross proceeds from the sale of liquefied  
15 petroleum gas or natural gas sold to be used for agricultural  
16 purposes.

17 "(34) The gross receipts of sales from state  
18 nurseries of forest tree seedlings.

19 "(35) The gross receipts of sales of forest tree  
20 seed by the state.

21 "(36) The gross receipts of sales of Lespedeza  
22 bicolor and other species of perennial plant seed and  
23 seedlings sold for wildlife and game food production purposes  
24 by the state.

25 "(37) The gross receipts of any aircraft  
26 manufactured, sold, and delivered in this state if said

1 aircraft are not permanently domiciled in Alabama and are  
2 removed to another state.

3 "(38) The gross proceeds from the sale or sales of  
4 all diesel fuel used for off-highway agricultural purposes.

5 "(39) The gross proceeds from sales of admissions to  
6 any sporting event which:

7 "a. Takes place in the State of Alabama on or after  
8 January 1, 1984, regardless of when such sales occur; and

9 "b. Is hosted by a not-for-profit corporation  
10 organized and existing under the laws of the State of Alabama;  
11 and

12 "c. Determines a national championship of a national  
13 organization, including but not limited to the Professional  
14 Golfers Association of America, the Tournament Players  
15 Association, the United States Golf Association, the United  
16 States Tennis Association, and the National Collegiate  
17 Athletic Association; and

18 "d. Has not been held in the State of Alabama on  
19 more than one prior occasion, provided, however, that for such  
20 purpose the Professional Golfers Association Championship, the  
21 United States Open Golf Championship, the United States  
22 Amateur Golf Championship of the United States Golf  
23 Association, and the United States Open Tennis Championship  
24 shall each be treated as a separate event.

25 "(40) The gross receipts from the sale of any  
26 aircraft and replacement parts, components, systems, supplies,  
27 and sundries affixed or used on said aircraft and ground

1 support equipment and vehicles used by or for the aircraft to  
2 or by a certificated or licensed air carrier with a hub  
3 operation within this state, for use in conducting intrastate,  
4 interstate, or foreign commerce for transporting people or  
5 property by air. For the purpose of this subdivision, the  
6 words "hub operation within this state" shall be construed to  
7 have all of the following criteria:

8 "a. There originates from the location 15 or more  
9 flight departures and five or more different first-stop  
10 destinations five days per week for six or more months during  
11 the calendar year; and

12 "b. Passengers and/or property are regularly  
13 exchanged at the location between flights of the same or a  
14 different certificated or licensed air carrier.

15 "(41) The gross receipts from the sale of hot or  
16 cold food and beverage products sold to or by a certificated  
17 or licensed air carrier with a hub operation within this  
18 state, for use in conducting intrastate, interstate, or  
19 foreign commerce for transporting people or property by air.  
20 For the purpose of this subdivision, the words "hub operation  
21 within this state" shall be construed to have all of the  
22 following criteria:

23 "a. There originates from the location 15 or more  
24 flight departures and five or more different first-stop  
25 destinations five days per week for six or more months during  
26 the calendar year; and

1            "b. Passengers and/or property are regularly  
2 exchanged at the location between flights of the same or a  
3 different certificated or licensed air carrier.

4            "(42) The gross receipts from the sale of any  
5 aviation jet fuel to a certificated or licensed air carrier  
6 purchased for use in scheduled all-cargo operations being  
7 conducted on international flights or in international  
8 commerce. For purposes of this subdivision, the following  
9 words or terms shall be defined and interpreted as follows:

10           "a. Air Carrier. Any person, firm, corporation, or  
11 entity undertaking by any means, directly or indirectly, to  
12 provide air transportation.

13           "b. All-Cargo Operations. Any flight conducted by an  
14 air carrier for compensation or hire other than a passenger  
15 carrying flight, except passengers as specified in 14 C.F.R.  
16 §121.583(a) or 14 C.F.R. §135.85, as amended.

17           "c. International Commerce. Any air carrier engaged  
18 in all-cargo operations transporting goods for compensation or  
19 hire on international flights.

20           "d. International Flights. Any air carrier  
21 conducting scheduled all-cargo operations between any point  
22 within the 50 states of the United States and the District of  
23 Columbia and any point outside the 50 states of the United  
24 States and the District of Columbia, including any interim  
25 stops within the United States so long as the ultimate origin  
26 or destination of the aircraft is outside the United States  
27 and the District of Columbia.

1           "(43) The gross proceeds of the sale or sales of the  
2 following:

3           "a. Drill pipe, casing, tubing, and other pipe used  
4 for the exploration for or production of oil, gas, sulphur, or  
5 other minerals in offshore federal waters.

6           "b. Tangible personal property exclusively used for  
7 the exploration for or production of oil, gas, sulphur, or  
8 other minerals in offshore federal waters.

9           "c. Fuel and supplies for use or consumption aboard  
10 boats, ships, aircraft, and towing vessels when used  
11 exclusively in transporting persons or property between a  
12 point in Alabama and a point or points in offshore federal  
13 waters for the exploration for or production of oil, gas,  
14 sulphur, or other minerals in offshore federal waters.

15           "d. Drilling equipment that is used for the  
16 exploration for or production of oil, gas, sulphur, or other  
17 minerals, that is built for exclusive use outside this state  
18 and that is, on completion, removed forthwith from this state.

19           "The delivery of items exempted by this subdivision  
20 to the purchaser or lessee in this state does not disqualify  
21 the purchaser or lessee from the exemption if the property is  
22 removed from the state by any means, including by the use of  
23 the purchaser's or lessee's own facilities.

24           "The shipment to a place in this state of equipment  
25 exempted by this subdivision for further assembly or  
26 fabrication does not disqualify the purchaser or lessee from  
27 the exemption if on completion of the further assembly or

1 fabrication the equipment is removed forthwith from this  
2 state. This subdivision applies to a sale that may occur when  
3 the equipment exempted is further assembled or fabricated if  
4 on completion the equipment is removed forthwith from this  
5 state.

6 "(44) The gross receipts derived from all bingo  
7 games and operations which are conducted in compliance with  
8 validly enacted legislation authorizing the conduct of such  
9 games and operations, and which comply with the distribution  
10 requirements of the applicable local laws; provided that the  
11 exemption from sales taxation granted by this subdivision  
12 shall apply only to gross receipts taxable under subdivision  
13 (2) of Section 40-23-2. It is further provided that this  
14 exemption shall not apply to any gross receipts from the sale  
15 of tangible personal property, such as concessions, novelties,  
16 food, beverages, etc. The exemption provided for in this  
17 section shall be limited to those games and operations by  
18 organizations which have qualified for exemption under the  
19 provisions of 26 U.S.C. § 501 (c) (3), (4), (7), (8), (10), or  
20 (19), or which are defined in 26 U.S.C. § 501(d).

21 "(45) The gross receipts derived from the sale or  
22 sales of fruit or other agricultural products by the person or  
23 ~~corporation~~ company, as defined in Section 40-23-1, that  
24 planted, or cultivated, and harvested ~~such~~ the fruit or  
25 agricultural product, when the land is owned or leased by the  
26 seller.

1           "(46) The gross receipts derived from the sale or  
2 sales of all domestically mined or produced coal, coke, and  
3 coke by-products used in cogeneration plants.

4           "(47) The gross receipts from the sale or sales of  
5 metal, other than gold or silver, when such metal is purchased  
6 for the purpose of transferring such metal to an investment  
7 trust in exchange for shares or other units, each of which are  
8 both publicly traded and represent fractional undivided  
9 beneficial interests in the trust's net assets, including  
10 metal stored in warehouses located in this state, as well as  
11 the gross proceeds from the sale or other transfer of such  
12 metal to or from such investment trust in exchange for shares  
13 or other units that are publicly traded and represent  
14 fractional undivided beneficial interests in the trust's net  
15 assets but not to the extent that metal is transferred to or  
16 from the investment trust in exchange for consideration other  
17 than such publicly traded shares or other units. For purposes  
18 of this subdivision, the term metals includes, but is not  
19 limited to, copper, aluminum, nickel, zinc, tin, lead, and  
20 other similar metals typically used in commercial and  
21 industrial applications.

22           "(48) For the period commencing on October 1, 2012,  
23 and ending May 30, 2022, unless extended by joint resolution,  
24 the gross receipts from the sale of parts, components, and  
25 systems that become a part of a fixed or rotary wing military  
26 aircraft or certified transport category aircraft that  
27 undergoes conversion, reconfiguration, or general maintenance

1 so long as the address of the aircraft for FAA registration is  
2 not in the state; provided, however, that this exemption shall  
3 not apply to a local sales tax unless previously exempted by  
4 local law or approved by resolution of the local governing  
5 body.

6 "(49) The gross proceeds from the sale or sales  
7 within school buildings of lunches to pupils of kindergarten,  
8 grammar, and high schools, either public or private, that are  
9 not sold for profit.

10 "(50) The gross proceeds of services provided by  
11 photographers, including but not limited to sitting fees and  
12 consultation fees, even when provided as part of a transaction  
13 ultimately involving the sale of one or more photographs, so  
14 long as the exempt services are separately stated to the  
15 customer on a bill of sale, invoice, or like memorialization  
16 of the transaction. For transactions occurring before October  
17 1, 2017, neither the Department of Revenue nor local tax  
18 officials may seek payment for sales tax not collected. With  
19 regard to such transactions in which sales tax was collected  
20 and remitted on services provided by photographers, neither  
21 the taxpayer nor the entity remitting sales tax shall have the  
22 right to seek refund of such tax.

23 "(b) Any violation of any provision of this section  
24 shall be punishable in a court of competent jurisdiction by a  
25 fine of not less than \$500 and no more than \$2,000 and  
26 imprisonment of not less than six months nor more than one  
27 year in the county jail.

1           "§40-23-62.

2           "The storage, use, or other consumption in this  
3 state of the following tangible personal property is hereby  
4 specifically exempted from the tax imposed by this article:

5           "(1) Property, on which the sales tax imposed by the  
6 provisions of Article 1 of this chapter is paid by the  
7 consumer to a person licensed under the provisions of Article  
8 1 of this chapter.

9           "~~(2) Property, the storage, use, or other~~  
10 ~~consumption of which this state is prohibited from taxing~~  
11 ~~under the Constitution or laws of the United States of America~~  
12 ~~or under the constitution of this state.~~

13           "~~(3)~~ (2) Tangible personal property, not to be used  
14 in the performance of a contract, brought into this state by a  
15 nonresident thereof for his or her own storage, use, or  
16 consumption while temporarily within this state.

17           "(3) In addition to the exemptions provided in  
18 subdivisions (1) and (2), all exemptions enumerated in  
19 Sections 40-23-4(a) and 40-23-4.1 are incorporated by  
20 reference in this section.

21           "~~(4) Lubricating oil and gasoline as defined in~~  
22 ~~Sections 40-17-30 and 40-17-170, the storage, use, or other~~  
23 ~~consumption of which is otherwise taxed.~~

24           "~~(5) All fertilizer; provided, that the word~~  
25 ~~"fertilizer" as used in this article shall not be construed to~~  
26 ~~include cottonseed meal when not in combination with other~~  
27 ~~material.~~

1           ~~"(6) All seeds for planting purposes and baby chicks~~  
2           ~~and poults; provided, that nothing herein shall be construed~~  
3           ~~to exempt plants, seedlings, nursery stock or floral products.~~

4           ~~"(7) Insecticides and fungicides and feed for~~  
5           ~~livestock and poultry, but not including prepared foods for~~  
6           ~~dogs and cats.~~

7           ~~"(8) The use, storage, or consumption of all~~  
8           ~~livestock by whomsoever sold; and also the gross proceeds of~~  
9           ~~poultry and other products of the farm, dairy, grove or~~  
10           ~~garden, when in the original state of production or condition~~  
11           ~~of preparation for sale, when such sale or sales are made by~~  
12           ~~the producer or members of his immediate family or for him by~~  
13           ~~those employed by him to assist in the production thereof.~~  
14           ~~Nothing herein shall be construed to exempt or exclude from~~  
15           ~~the measure or computation of the tax levied, assessed, or~~  
16           ~~payable hereunder, the gross proceeds of sales of poultry or~~  
17           ~~poultry products when not products of the farm.~~

18           ~~"(9) Cottonseed meal exchanged for cottonseed at or~~  
19           ~~by cotton gins.~~

20           ~~"(10) Transportation, gas, water, or electricity, of~~  
21           ~~the kinds and natures, the rates and charges for which when~~  
22           ~~sold by public utilities, are customarily fixed and determined~~  
23           ~~by the Public Service Commission of Alabama or like regulatory~~  
24           ~~bodies.~~

25           ~~"(11) Coal or coke to be stored, used, or consumed~~  
26           ~~by manufacturers, electric power companies and transportation~~

1 ~~companies for use or consumption in the production of~~  
2 ~~by-products or the generation of heat or power used:~~

3 ~~"a. In manufacturing tangible personal property for~~  
4 ~~sale;~~

5 ~~"b. For the generation of electric power or energy~~  
6 ~~for use in manufacturing tangible personal property for sale~~  
7 ~~or for resale; or~~

8 ~~"c. For the generation of motive power for~~  
9 ~~transportation.~~

10 ~~"(12) Fuel and supplies for use or consumption~~  
11 ~~aboard ships, vessels, towing vessels, or barges, or drilling~~  
12 ~~ships, rigs or barges, or seismic or geophysical vessels, or~~  
13 ~~other watercraft (herein for purposes of this exemption being~~  
14 ~~referred to as vessels) engaged in foreign or international~~  
15 ~~commerce or in interstate commerce; provided, that nothing in~~  
16 ~~this article shall be construed to exempt or exclude from the~~  
17 ~~measure of the tax herein levied the gross proceeds of sale or~~  
18 ~~sales of material and supplies to any person for use in~~  
19 ~~fulfilling a contract for the painting, repair or~~  
20 ~~reconditioning of vessels, barges, ships, other watercraft and~~  
21 ~~commercial fishing vessels of over five tons load displacement~~  
22 ~~as registered with the U.S. Coast Guard and licensed by the~~  
23 ~~State of Alabama Department of Conservation and Natural~~  
24 ~~Resources. For purposes of this subdivision, it shall be~~  
25 ~~presumed that vessels engaged in the transportation of cargo~~  
26 ~~between ports in the State of Alabama and ports in foreign~~  
27 ~~countries or possessions or territories of the United States~~

1 ~~or between ports in the State of Alabama and ports in other~~  
2 ~~states are engaged in foreign or international commerce or~~  
3 ~~interstate commerce, as the case may be. For the purposes of~~  
4 ~~this subdivision, the engaging in foreign or international~~  
5 ~~commerce or interstate commerce shall not require that the~~  
6 ~~vessel involved deliver cargo to or receive cargo from a port~~  
7 ~~in the State of Alabama. For purposes of this subdivision,~~  
8 ~~vessels carrying passengers for hire, and no cargo, between~~  
9 ~~ports in the State of Alabama and ports in foreign countries~~  
10 ~~or possessions or territories of the United States or between~~  
11 ~~ports in the State of Alabama and ports in other states shall~~  
12 ~~be engaged in foreign or international commerce or interstate~~  
13 ~~commerce, as the case may be, if, and only if, both of the~~  
14 ~~following conditions are met: (i) The vessel in question is a~~  
15 ~~vessel of at least 100 gross tons; and (ii) the vessel in~~  
16 ~~question has an unexpired certificate of inspection issued by~~  
17 ~~the United States Coast Guard or by the proper authority of a~~  
18 ~~foreign country for a foreign vessel, which certificate is~~  
19 ~~recognized as acceptable under the laws of the United States.~~  
20 ~~Vessels which are engaged in foreign or international commerce~~  
21 ~~or interstate commerce shall be deemed for the purposes of~~  
22 ~~this subdivision to remain in such commerce while awaiting or~~  
23 ~~under repair in a port of the State of Alabama if such vessel~~  
24 ~~returns after such repairs are completed to engaging in~~  
25 ~~foreign or international commerce or interstate commerce. For~~  
26 ~~purposes of this subdivision, seismic or geophysical vessels~~  
27 ~~which are engaged either in seismic or geophysical tests or~~

1 ~~evaluations exclusively in offshore federal waters or in~~  
2 ~~traveling to or from conducting such tests or evaluations~~  
3 ~~shall be deemed to be engaged in international or foreign~~  
4 ~~commerce. For purposes of this subdivision, proof that fuel~~  
5 ~~and supplies purchased are for use or consumption aboard~~  
6 ~~vessels engaged in foreign or international commerce or in~~  
7 ~~interstate commerce may be accomplished by the merchant or~~  
8 ~~seller securing the duly signed certificate of the vessel~~  
9 ~~owner, operator or captain or their respective agent on a form~~  
10 ~~prescribed by the department that the fuel and supplies~~  
11 ~~purchased are for use or consumption aboard vessels engaged in~~  
12 ~~foreign or international commerce or in interstate commerce.~~  
13 ~~Any person filing a false certificate shall be guilty of a~~  
14 ~~misdemeanor and upon conviction shall be fined not less than~~  
15 ~~\$25 nor more than \$500 for each offense. Each false~~  
16 ~~certificate filed shall constitute a separate offense. Any~~  
17 ~~person filing a false certificate shall be liable to the~~  
18 ~~department for all taxes imposed by this division upon the~~  
19 ~~merchant or seller, together with any interest or penalties~~  
20 ~~thereon, by reason of the sale or sales of fuel and supplies~~  
21 ~~applicable to such false certificate. If a merchant or seller~~  
22 ~~of fuel and supplies secures the certificate herein mentioned,~~  
23 ~~properly completed, such merchant or seller shall not be~~  
24 ~~liable for the taxes imposed by this division, if such~~  
25 ~~merchant or seller had no knowledge that such certificate was~~  
26 ~~false when it was filed with such merchant or seller.~~

1           ~~"(13) Property stored, used, or consumed by the~~  
2           ~~State of Alabama, by the counties within the state or by~~  
3           ~~incorporated municipalities of the State of Alabama.~~

4           ~~"(14) The use, storage, or consumption of materials,~~  
5           ~~equipment and machinery which, at any time, enter into and~~  
6           ~~become a component part of ships, vessels, towing vessels or~~  
7           ~~barges, or drilling ships, rigs or barges, or seismic or~~  
8           ~~geophysical vessels, other watercraft and commercial fishing~~  
9           ~~vessels of over five tons load displacement as registered with~~  
10          ~~the U.S. Coast Guard and licensed by the Department of~~  
11          ~~Conservation and Natural Resources. Additionally, the use,~~  
12          ~~storage, or consumption of lifeboats, personal flotation~~  
13          ~~devices, ring life buoys, survival craft equipment, distress~~  
14          ~~signals, EPIRB's, fire extinguishers, injury placards, waste~~  
15          ~~management plans and logs, marine sanitation devices,~~  
16          ~~navigation rulebooks, navigation lights, sound signals,~~  
17          ~~navigation day shapes, oil placard cards, garbage placards,~~  
18          ~~FCC SSL, stability instructions, first aid equipment,~~  
19          ~~compasses, anchor and radar reflectors, general alarm systems,~~  
20          ~~bilge pumps, piping, and discharge and electronic position~~  
21          ~~fixing devices on the aforementioned watercraft.~~

22          ~~"(15) The use, storage, or consumption of fuel oil~~  
23          ~~purchased as fuel for kilns used in manufacturing~~  
24          ~~establishments.~~

25          ~~"(16) Tangible personal property stored, used, or~~  
26          ~~consumed by county and city school boards within the State of~~  
27          ~~Alabama, independent school boards within the State of~~

1 ~~Alabama, all educational institutions and agencies of the~~  
2 ~~State of Alabama, the counties within the state or any~~  
3 ~~incorporated municipality of the State of Alabama, and private~~  
4 ~~educational institutions operating within the State of Alabama~~  
5 ~~offering conventional and traditional courses of study, such~~  
6 ~~as those offered by public schools, colleges, or universities~~  
7 ~~within the State of Alabama, but not including nurseries, day~~  
8 ~~care centers, and home schools.~~

9 ~~"(17) The storage, use, or consumption of railroad~~  
10 ~~cars, vessels, and barges and commercial fishing vessels of~~  
11 ~~over five tons load displacement as registered with the U.S.~~  
12 ~~Coast Guard and licensed by the State of Alabama Department of~~  
13 ~~Conservation and Natural Resources when purchased from the~~  
14 ~~manufacturers or builders thereof.~~

15 ~~"(18) The storage, use, or consumption of all~~  
16 ~~devices or facilities, and all identifiable components thereof~~  
17 ~~or materials for use therein, used or placed in operation~~  
18 ~~primarily for the control, reduction or elimination of air or~~  
19 ~~water pollution, and the storage, use, or consumption of all~~  
20 ~~identifiable components of or materials used or intended for~~  
21 ~~use in structures built primarily for the control, reduction~~  
22 ~~or elimination of air or water pollution.~~

23 ~~"(19) When dealers or distributors use parts taken~~  
24 ~~from stocks owned by them in making repairs without charge for~~  
25 ~~such parts to the owner of the property required pursuant to~~  
26 ~~warranty agreements entered into by manufacturers, such use~~  
27 ~~shall not constitute taxable sales to the manufacturers,~~

1 ~~distributors or to the dealers, under this article, or under~~  
2 ~~any county use tax law.~~

3 ~~"(20) (4) The storage, use, or other consumption in~~  
4 ~~this state of religious magazines and publications. For the~~  
5 ~~purpose of this subdivision the words "religious magazines and~~  
6 ~~publications" shall be construed to mean printed or~~  
7 ~~illustrated lessons, notes and explanations distributed by~~  
8 ~~churches or other religious organizations free of charge to~~  
9 ~~pupils or students in Sunday schools, Bible classes or other~~  
10 ~~educational facilities established and maintained by churches~~  
11 ~~or similar religious organizations in this state.~~

12 ~~"(21) The storage, use, or other consumption of~~  
13 ~~wrapping paper and other wrapping materials when used in~~  
14 ~~preparing poultry or poultry products for delivery, shipment~~  
15 ~~or sale by the producer, processor, packer, or seller of such~~  
16 ~~poultry or poultry products including pallets used in shipping~~  
17 ~~poultry and egg products, paper or other materials used for~~  
18 ~~lining boxes or other containers in which poultry or poultry~~  
19 ~~products are packed together with any other materials placed~~  
20 ~~in such containers for the delivery, shipment or sale of~~  
21 ~~poultry or poultry products.~~

22 ~~"(22) The storage, use, or other consumption of all~~  
23 ~~antibiotics, hormones and hormone preparations, drugs,~~  
24 ~~medicines or medications, vitamins, minerals, or other~~  
25 ~~nutrients and all other feed ingredients including~~  
26 ~~concentrates, supplements and other feed ingredients when such~~  
27 ~~substances are used as ingredients in mixing and preparing~~

1 ~~feed for livestock and poultry. Such exemption herein granted~~  
2 ~~shall be in addition to exemptions now provided by law for~~  
3 ~~feed for livestock and poultry, but not including prepared~~  
4 ~~foods for dogs and cats.~~

5 ~~"(23) The use of seedlings, plants, shoots, and~~  
6 ~~slips which are to be used for planting vegetable gardens or~~  
7 ~~truck farms. Nothing herein shall be construed to exempt, or~~  
8 ~~exclude from the computation of the tax levied, assessed, or~~  
9 ~~payable, the use of plants, seedlings, shoots, slips, nursery~~  
10 ~~stock and floral products except as hereinabove exempted.~~

11 ~~"(24) Fabricated steel tube sections, when produced~~  
12 ~~and fabricated in this state by any person, firm, or~~  
13 ~~corporation, for any vehicular tunnel for highway vehicular~~  
14 ~~traffic, when sold by the manufacturer or fabricator thereof,~~  
15 ~~and also steel which enters into and becomes a component part~~  
16 ~~of such fabricated steel tube sections of the tunnel, shall be~~  
17 ~~exempted from the provisions of this article and from the~~  
18 ~~computation of the amount of the tax levied, assessed or~~  
19 ~~payable under this article.~~

20 ~~"(25) The storage, use, or other consumption of~~  
21 ~~herbicides for agricultural uses by whomsoever sold. The term~~  
22 ~~"herbicides" as used in this subdivision means any substance~~  
23 ~~or mixture of substances intended to prevent, destroy, repel,~~  
24 ~~or retard the growth of weeds or plants. It shall include~~  
25 ~~preemergence herbicides, postemergence herbicides, lay-by~~  
26 ~~herbicides, pasture herbicides, defoliant herbicides, and~~  
27 ~~desiccant herbicides.~~

1           ~~"(26) The Alabama Chapter of the Cystic Fibrosis~~  
2           ~~Research Foundation, and the Jefferson Tuberculosis Sanatorium~~  
3           ~~and any of their departments or agencies, heretofore or~~  
4           ~~hereafter organized and existing in good faith in the State of~~  
5           ~~Alabama for purposes other than for pecuniary gain and not for~~  
6           ~~individual profit, shall be exempted from the payment of the~~  
7           ~~state use tax levied under this article.~~

8           ~~"(27) Fuel for use or consumption aboard commercial~~  
9           ~~fishing vessels are hereby exempt from the payment of the~~  
10           ~~state use tax levied under this article, or levied under any~~  
11           ~~county or municipal use tax law.~~

12           ~~"The words commercial fishing vessels shall mean~~  
13           ~~vessels whose masters and owners are regularly and exclusively~~  
14           ~~engaged in fishing as their means of livelihood.~~

15           ~~"(28) The storage, use, or withdrawal of sawdust,~~  
16           ~~wood shavings, wood chips, and other like materials purchased~~  
17           ~~for use as chicken litter by poultry producers and poultry~~  
18           ~~processors shall be exempt under this article.~~

19           ~~"(29) The storage, use, or other consumption of all~~  
20           ~~antibiotics, hormones and hormone preparations, drugs,~~  
21           ~~medicines and other medications including serums and vaccines,~~  
22           ~~vitamins, minerals or other nutrients for use in the~~  
23           ~~production and growing of fish, livestock, and poultry are~~  
24           ~~hereby specifically exempted from the payment of the state use~~  
25           ~~tax levied by this article. Such exemption as herein granted~~  
26           ~~shall be in addition to the exemptions now provided by law for~~  
27           ~~feed for fish, livestock, and poultry, and in addition to the~~

1 ~~exemptions now provided by law for the above-enumerated~~  
2 ~~substances and products when mixed and used as ingredients in~~  
3 ~~fish, livestock and poultry feeds.~~

4 ~~"(30) All medicines prescribed by physicians for~~  
5 ~~persons who are 65 years of age or older, and when the~~  
6 ~~prescriptions are filled by licensed pharmacists, shall be~~  
7 ~~exempted from the operation of the state use tax law levied by~~  
8 ~~this article, or by any county or municipal use tax law. The~~  
9 ~~exemptions provided in this subdivision shall not apply to any~~  
10 ~~medicine purchased in any manner other than as is herein~~  
11 ~~provided.~~

12 ~~"For the purposes of this subdivision, proof of age~~  
13 ~~may be accomplished by filing with the dispensing pharmacist~~  
14 ~~any one or more of the following documents:~~

15 ~~"a. The name and claim number as shown on a~~  
16 ~~"Medicare" card issued by the United States Social Security~~  
17 ~~Administration.~~

18 ~~"b. A certificate executed by any adult person~~  
19 ~~having knowledge of the fact that the person for whom the~~  
20 ~~medicine was prescribed is not less than 65 years of age.~~

21 ~~"c. An affidavit executed by any adult person having~~  
22 ~~knowledge of the fact that the person for whom the medicine~~  
23 ~~was prescribed is not less than 65 years of age.~~

24 ~~"For the purposes of this subdivision any person~~  
25 ~~filing a false proof of age shall be guilty of a misdemeanor~~  
26 ~~and upon conviction thereof shall be punished by a fine of~~  
27 ~~\$100.~~

1           ~~"(31) All diesel fuel used for off-highway~~  
2           ~~agricultural purposes.~~

3           ~~"(32) The storage, use, or other consumption of any~~  
4           ~~aircraft and replacement parts, components, systems, supplies~~  
5           ~~and sundries affixed or used on the aircraft and ground~~  
6           ~~support equipment and vehicles used by or for the aircraft by~~  
7           ~~a certificated or licensed air carrier with a hub operation~~  
8           ~~within this state, for use in conducting intrastate,~~  
9           ~~interstate or foreign commerce for transporting people or~~  
10           ~~property by air. For the purpose of this subdivision, the~~  
11           ~~words "hub operation within this state" shall be construed to~~  
12           ~~have all of the following criteria:~~

13           ~~"a. There originates from the location 15 or more~~  
14           ~~flight departures and five or more different first-stop~~  
15           ~~destinations five days per week for six or more months during~~  
16           ~~the calendar year; and~~

17           ~~"b. Passengers and/or property are regularly~~  
18           ~~exchanged at the location between flights of the same or a~~  
19           ~~different certificated or licensed air carrier.~~

20           ~~"(33) The storage, use, or other consumption of any~~  
21           ~~aviation jet fuel used by an aircraft operated by a~~  
22           ~~certificated or licensed air carrier that purchases jet fuel~~  
23           ~~for use in scheduled all-cargo operations being conducted on~~  
24           ~~international flights or in international commerce. For~~  
25           ~~purposes of this subdivision, the following words or terms~~  
26           ~~shall be defined and interpreted as follows:~~

1           ~~"a. Air Carrier. Any person, firm, corporation, or~~  
2 ~~entity undertaking by any means, directly or indirectly, to~~  
3 ~~provide air transportation.~~

4           ~~"b. All-Cargo Operations. Any flight conducted by an~~  
5 ~~air carrier for compensation or hire other than a passenger~~  
6 ~~carrying flight, except passengers as specified in 14 C.F.R.~~  
7 ~~§121.583(a) or 14 C.F.R. §135.85, as amended.~~

8           ~~"c. International Commerce. Any air carrier engaged~~  
9 ~~in all-cargo operations transporting goods for compensation or~~  
10 ~~hire on international flights.~~

11           ~~"d. International Flights. Any air carrier~~  
12 ~~conducting scheduled all-cargo operations between any point~~  
13 ~~within the 50 states of the United States and the District of~~  
14 ~~Columbia and any point outside the 50 states of the United~~  
15 ~~States and the District of Columbia, including any interim~~  
16 ~~stops within the United States so long as the ultimate origin~~  
17 ~~or destination of the aircraft is outside the United States~~  
18 ~~and the District of Columbia.~~

19           ~~"(34) The storage, use, or other consumption of hot~~  
20 ~~or cold food and beverage products by a certificated or~~  
21 ~~licensed air carrier with a hub operation within this state,~~  
22 ~~for use in conducting intrastate, interstate, or foreign~~  
23 ~~commerce for transporting people or property by air. For the~~  
24 ~~purpose of this subdivision, the words "hub operation within~~  
25 ~~this state" shall be construed to have all of the following~~  
26 ~~criteria:~~

1           ~~"a. There originates from the location 15 or more~~  
2 ~~flight departures and five or more different first-stop~~  
3 ~~destinations five days per week for six or more months during~~  
4 ~~the calendar year; and~~

5           ~~"b. Passengers and/or property are regularly~~  
6 ~~exchanged at the location between flights of the same or a~~  
7 ~~different certificated or licensed air carrier.~~

8           ~~"(35) The storage, use, or other consumption of the~~  
9 ~~following:~~

10           ~~"a. Drill pipe, casing, tubing, and other pipe used~~  
11 ~~for the exploration for or production of oil, gas, sulphur, or~~  
12 ~~other minerals in offshore federal waters.~~

13           ~~"b. Tangible personal property exclusively used for~~  
14 ~~the exploration for or production of oil, gas, sulphur, or~~  
15 ~~other minerals in offshore federal waters.~~

16           ~~"c. Fuel and supplies for use or consumption aboard~~  
17 ~~boats, ships, aircraft, and towing vessels when used~~  
18 ~~exclusively in transporting persons or property between a~~  
19 ~~point in Alabama and a point or points in offshore federal~~  
20 ~~waters for the exploration for or production of oil, gas,~~  
21 ~~sulphur, or other minerals in offshore federal waters.~~

22           ~~"d. Drilling equipment that is used for the~~  
23 ~~exploration for or production of oil, gas, sulphur, or other~~  
24 ~~minerals, that is built for exclusive use outside this state~~  
25 ~~and that is, on completion, removed forthwith from this state.~~

26           ~~"e. All domestically mined or produced coal, coke,~~  
27 ~~and coke by-products used in cogeneration plants in Alabama.~~

1           ~~"The delivery of items exempted by this subdivision~~  
2 ~~to the purchaser or lessee in this state does not disqualify~~  
3 ~~the purchaser or lessee from the exemption if the property is~~  
4 ~~removed from the state by any means, including by the use of~~  
5 ~~the purchaser's or lessee's own facilities.~~

6           ~~"The shipment to a place in this state of equipment~~  
7 ~~exempted by this subdivision for further assembly or~~  
8 ~~fabrication does not disqualify the purchaser or lessee from~~  
9 ~~the exemption if on completion of the further assembly or~~  
10 ~~fabrication the equipment is removed forthwith from this~~  
11 ~~state. This subdivision applies to a sale that may occur when~~  
12 ~~the equipment exempted is further assembled or fabricated if~~  
13 ~~on completion the equipment is removed forthwith from this~~  
14 ~~state.~~

15           ~~"(36) The storage or use of metal, other than gold~~  
16 ~~or silver, when such metal is held by an investment trust the~~  
17 ~~shares or other units in the trust's net assets of which have~~  
18 ~~been issued in exchange for such metal and are publicly~~  
19 ~~traded, including metal stored in warehouses located in this~~  
20 ~~state. For purposes of this subdivision, the term metals~~  
21 ~~includes, but is not limited to, copper, aluminum, nickel,~~  
22 ~~zinc, tin, lead, and other similar metals typically used in~~  
23 ~~commercial and industrial applications.~~

24           ~~"(37) For the period commencing October 1, 2012, and~~  
25 ~~ending May 30, 2022, unless extended by joint resolution, all~~  
26 ~~parts, components, and systems that become a part of a fixed~~  
27 ~~or rotary wing military aircraft or certified transport~~

1 ~~category aircraft which undergoes conversion, reconfiguration,~~  
2 ~~or general maintenance so long as the address of the aircraft~~  
3 ~~for FAA registration is not in the state; provided, however,~~  
4 ~~that this exemption shall not apply to a local use tax unless~~  
5 ~~previously exempted by local law or approved by resolution of~~  
6 ~~the local governing body.~~

7 ~~"(38) Lunches sold not for profit and within school~~  
8 ~~buildings to pupils of kindergarten, grammar, and high~~  
9 ~~schools, either public or private.~~

10 ~~"(39) Services provided by photographers, including~~  
11 ~~but not limited to sitting fees and consultation fees, even~~  
12 ~~when provided as a part of a transaction ultimately involving~~  
13 ~~the sale of one or more photographs, so long as the exempt~~  
14 ~~services are separately stated to the customer on a bill of~~  
15 ~~sale, invoice, or like memorialization of the transaction. For~~  
16 ~~transactions occurring before October 1, 2017, neither the~~  
17 ~~Department of Revenue nor local tax officials may seek payment~~  
18 ~~for use tax not collected. With regard to such transactions in~~  
19 ~~which use tax was collected and remitted on services provided~~  
20 ~~by photographers, neither the taxpayer nor the entity~~  
21 ~~remitting use tax shall have the right to seek refund of such~~  
22 ~~tax."~~

23 Section 2. This act shall become effective  
24 immediately following its passage and approval by the  
25 Governor, or its otherwise becoming law.